

are employed by the Recipient either full-time or part-time. EDA may approve the use of such “in-house forces” if:

- (a) The services are routinely performed by the Recipient for all construction Projects performed by the Recipient (for example, inspection or legal); or
- (b) The Recipient has a special skill required for the construction of the Project (for example, construction of unique Indian structures); or
- (c) The Recipient has made all reasonable efforts to obtain a contractor but has failed to do so because of uncontrollable factors such as the remoteness of the Project site or an overabundance of construction work in the Region; or
- (d) The Recipient demonstrates substantial cost savings.

#### **§305.8 Recipient-furnished equipment and materials.**

The Recipient may wish to incorporate into the Project equipment or materials that it will secure through its own efforts, subject to the following requirements:

- (a) EDA must approve any use of Recipient-furnished equipment and materials. EDA may require that major equipment items be subject to a lien in favor of EDA and may also require a statement from the Recipient regarding expected useful life and salvage value of such equipment;
- (b) EDA may require the Recipient to establish that the expense claimed for such equipment or materials is competitive with current local market costs; and
- (c) Acquisition of Recipient-furnished equipment and/or materials under this section is also subject to the requirements of 15 CFR parts 14 or 24, as applicable.

#### **§305.9 Project phasing and Investment disbursement.**

- (a) EDA may authorize in advance the award of construction contracts in phases, provided the Recipient submits a request that includes each of the following:
  - (1) Valid reasons justifying why the Project must be phased;

- (2) Description of the specific elements to be completed in each phase;

- (3) Detailed construction cost estimates for each phase;

- (4) Time schedules for completing all phases of the Project;

- (5) Certification that the Recipient can and will fund any overrun(s); and

- (6) Certification that the Recipient is capable of paying incurred costs prior to the first disbursement of EDA funds.

(b) EDA will begin disbursement of funds after receipt of evidence sufficient to EDA of compliance with all Investment award conditions. EDA may approve the disbursement of funds prior to the tender of all construction contracts if the Recipient can demonstrate to EDA's satisfaction that a severe financial hardship will result without such approval.

#### **§305.10 Bid underrun.**

If at the construction contract bid opening, the lowest responsive bid is less than the total Project cost, the Recipient will notify EDA to determine whether Investment funds should be deobligated from the Project.

#### **§305.11 Contract awards; early construction start.**

EDA must determine that the award of all contracts necessary for design and construction of the Project facilities is in compliance with the terms and conditions of the Investment award in order for the costs to be eligible for EDA reimbursement. Pending this determination, the Recipient may issue a notice permitting construction under the contract to commence. If construction commences prior to EDA's determination, the Recipient proceeds at its own risk until EDA review and concurrence. The EDA regional office will advise the Recipient of the requirements necessary to obtain EDA's determination.

#### **§305.12 Project sign.**

The Recipient shall be responsible for the construction, erection and maintenance in good condition throughout the construction period of a sign or signs at a conspicuous place at the Project site indicating that the Federal government is participating in the Project. The EDA regional office will

provide mandatory specifications for the signage.

**§ 305.13 Contract change orders.**

(a) If it becomes necessary to alter the construction contracts post-execution, the Recipient and contractor shall agree to a formal contract change order.

(b) All contract change orders must receive EDA review for compliance with the terms and conditions of the Investment award, even if the Recipient is to pay for all additional costs resulting from the change or the change order reduces the contract price.

(c) Work on the Project may continue pending EDA review of the contract change order, but all such work will be at the Recipient's risk until EDA completes its review.

**§ 305.14 Occupancy prior to completion.**

Occupancy of any part of the Project prior to final acceptance is entirely at the Recipient's risk and must follow the requirements of local and State law.

**PART 306—TRAINING, RESEARCH AND TECHNICAL ASSISTANCE INVESTMENTS**

**Subpart A—Local and National Technical Assistance**

Sec.

306.1 Purpose and scope.

306.2 Award requirements.

306.3 Application requirements.

**Subpart B—University Center Economic Development Program**

306.4 Purpose and scope.

306.5 Award requirements.

306.6 Application requirements.

306.7 Performance evaluations of University Centers.

AUTHORITY: 42 U.S.C. 3147; 42 U.S.C. 3196; 42 U.S.C. 3211; Department of Commerce Organization Order 10–4.

SOURCE: 70 FR 47019, Aug. 11, 2005, unless otherwise noted.

**Subpart A—Local and National Technical Assistance**

**§ 306.1 Purpose and scope.**

(a) Local and National Technical Assistance Investments may:

(1) Determine the causes of excessive unemployment, underemployment, low per capita income, outmigration or other problems throughout the nation;

(2) Formulate and implement economic development tools, models, and innovative techniques that will alleviate or prevent conditions of excessive unemployment or underemployment;

(3) Formulate and implement economic development programs to increase local, regional and national capacity;

(4) Evaluate the effectiveness and economic impact of programs, projects and techniques to alleviate economic distress and promote economic development;

(5) Conduct project planning and feasibility studies;

(6) Provide management and operational assistance;

(7) Establish business outreach centers;

(8) Disseminate information about effective programs, projects and techniques that alleviate conditions of economic distress and promote economic development;

(9) Assess, market and establish business clusters and associations; or

(10) Perform other activities determined by EDA to be appropriate under the Local and National Technical Assistance program.

(b) Investment Assistance may not be used to start or expand a private business.

(c) EDA may identify specific training, research or technical assistance Projects it will fund, which will be subject to competition. Ordinarily, these Projects are specified in an FFO, which will provide the specific requirements, timelines and the appropriate points of contact and addresses.

(d) In providing Local and National Technical Assistance under this subpart, EDA, in addition to making Investments, may:

(1) Provide Local and National Technical Assistance through officers or employees of the Department;